

Hawaii Occupational Safety & Health Division (HIOSH)

Compliance Guidance for Residential Construction

STD 03-11-002

May 12, 2011

DIRECTIVE NO.: STD 03-11-002	EFFECTIVE DATE: June 16, 2011
SUBJECT: Compliance Guidance for Residential Construction	

ABSTRACT

- Purpose:** This Instruction cancels OSHA Instruction STD 03-00-001, OSHA's interim enforcement policy on fall protection for certain residential construction activities, and replaces it with new compliance guidance. Although HIOSH did not adopt STD 03-00-001, some employers believed we did. Therefore this document also clarifies HIOSH's position with respect to fall protection for residential construction.
- Scope:** HIOSH-wide
- References:** 29 CFR Part 1926 Subpart M—Fall Protection.
- Cancellations** HIOSH Guideline on Fall Protection for Residential Roofing Operations, May 2, 1997 and its amendment dated May 7, 1997; OSHA Instruction STD 03-00-001, Plain Language Revision of OSHA Instruction STD 3.1, Interim Fall Protection Compliance Guidelines for Residential Construction, dated June 18, 1999.
- Action Offices:** All compliance and consultation branches.
- Originating Agency:** OSHA. States must comply with same or similar

Executive Summary

This Instruction cancels HIOSH Guideline on Fall Protection for Residential Roofing Operations, and re-iterates OSHA's cancellation of STD 03-00-001, its interim enforcement policy on fall protection for specified residential construction activities, and replaces it with new compliance guidance. Under the new policy, employers engaged in residential construction must comply with 29 CFR 1926.501(b)(13).

Under 29 CFR 1926.501(b)(13), workers engaged in residential construction six (6) feet or more above lower levels must be protected by conventional fall protection (i.e., guardrail systems, safety net systems, or personal fall arrest systems) or other fall protection measures allowed elsewhere in 1926.501(b). However, if an employer can demonstrate that such fall protection is infeasible¹ or presents a greater hazard, it may implement a fall protection plan meeting the requirements of 1926.502(k). The fall protection plan's alternative measures must utilize safe work practices that eliminate or reduce the possibility of a fall. The plan must be written and be site-specific. A written plan developed for repetitive use for a particular style/model home will be considered site-specific with respect to a particular site only if it fully addresses all issues related to fall protection at that site.

¹ HIOSH definition of "infeasible" is impossible. Economic feasibility is not considered.

For purposes of determining the applicability of section 1926.501(b)(13), the term "residential construction" is interpreted as covering construction work on detached one- and two-story dwellings and townhouses not more than three stories above grade plane in height with a separate means of egress and their accessory structures. Similar to OSHA's interpretation the end-use of the structure being built must be as a home, i.e., a dwelling; however, to minimize confusion among contractors and developers, HIOSH is applying the definition for residential construction that mirrors the definition in the 2007 International Code Council (ICC) "Residential Code for One- and Two-Family Dwellings. HIOSH's interpretation means that homes being built with structural steel are still "residential construction".

Significant Changes from Prior HIOSH Guideline:

1. Prior Guideline applied only to roofing operations for low sloped roofs in residential construction; current STD applies to all residential construction.
2. Roofing work for residential construction can no longer be performed with slide guards (roof jacks) alone, unless the employer can demonstrate that the use of the protection means specified in 1926.501(b) (10) is infeasible or creates a greater hazard. If such demonstration is made, a site-specific written fall protection plan that complies with 1926.502(k) must be developed and implemented which provides equivalent protection.
3. The definition of "residential construction" has been changed to be consistent with the definition used in the industry, i.e. International Code Council (ICC), "Residential Code for One- and Two-Story Family Dwellings", 2007 edition.
4. Fall restraint systems are allowed for all residential construction.

Significant Changes from OSHA's STD 03-11-002:

1. Interpretation of "residential construction":
 - a. HIOSH utilizes the definition contained in the International Code Council (ICC), "Residential Code for One- and Two-Story Family Dwellings", 2007 edition to be consistent with county building permits.
 - b. The dwelling need not be constructed with traditional wood frame construction materials and methods.
 - c. Application of the term "residential construction" is limited to structures that are not more than three stores above grade plane in height.
2. Definition of "Infeasible":
 - a. HIOSH: "Infeasible means that it is impossible to perform the construction work using a conventional fall protection system (i.e., guardrail system, safety net system, or personal fall arrest system) or that it is technologically impossible to use any one of these systems to provide fall protection. " §1926.500(b) of HIOSH chapter 12-121.2-1, Hawaii Administrative Rules.
 - b. OSHA includes economic infeasibility in their definition, HIOSH does not.

I. Definition of "residential construction."

"Residential Construction" means construction work on detached one- and two-family dwellings and townhouses not more than three stores above grade plane in height with a separate means of egress and their accessory structures.

A. Residence Requirement.

To fall within the definition of "residential construction," the end-use of the building in question must be as a home or dwelling. This comports with the plain meaning of the term "residential" in the text of 1926.501(b)(13) and is consistent with OSHA's original intent in promulgating that provision.

Light commercial construction, even though using the same or similar construction materials and methods as residential construction, is not residential construction. The end-use of the building must be as a home or dwelling. Mixed residential and commercial is considered to be commercial and not residential.

B. Nursing homes, hotels, and similar facilities.

HIOSH has narrowed the interpretation of "residential construction" to one- and two-family dwellings and townhouses. This means that the following types of construction would not apply:

1. Nursing Homes;
2. Hotels and Motels;
3. Shelters;
4. Townhouses with three (3) or more units; and
5. Other similar construction.

C. Construction Method Requirement

Although OSHA has limited the interpretation of "residential construction" to those being built with traditional wood frame construction materials and methods, HIOSH does not believe that materials and methods makes much of a difference as to whether conventional fall protection is feasible or not. Therefore, the HIOSH interpretation of "residential construction" does not include materials or methods.

Although OSHA utilizes the term "traditional wood frame", it also allows the use of the following types of construction means and methods:

1. Cold-formed metal studs in framing; and
2. Masonry brick or block used for exterior walls.

HIOSH believes that as new construction materials and methods are developed, there will be additional confusion for employers as well as compliance officers about what is included in the interpretation of "residential construction" if we were to use the OSHA interpretation. HIOSH's simplified definition makes it clearer for all about when an infeasibility demonstration can be made for the purpose of applying alternative fall protection methods.

II. Fall Restraint Systems.

Fall restraint systems may be used in lieu of personal fall arrest systems for residential construction. Fall restraint systems must be capable of preventing falls from heights.

All of the requirements for personal fall arrest systems detailed in 1926.502(d) apply to fall restraint systems except that the anchorages used for attachment of fall restraint equipment shall be capable of supporting at least 3,000 pounds (13.3 kN) per employee attached. All other equipment must be rated for 5,000 pounds (22.2 kN) per employee because of the potential for equipment interchange between fall arrest and fall restraint equipment.

III. Citation Policy.

- A. If an employer is engaged in residential construction, but does not provide guardrail systems, safety net systems, personal fall arrest systems, or other fall protection allowed under 1926.501(b), a citation for violating 1926.501(b)(13) should be issued unless the employer can demonstrate the infeasibility of these protective measures or the existence of a greater hazard. If the employer demonstrates infeasibility or a greater hazard, the CSHO must determine if the employer has implemented a fall protection plan meeting the requirements of 1926.502(k). Part of that determination will be based on whether the employer has instituted alternative measures to reduce or eliminate fall hazards.
- B. Under STD 03-00-001, the employer was not required to have a fall protection plan that was written and site-specific. With the cancellation of STD 03-00-001, fall protection plans under 1926.502(k) must be written and site-specific. If the fall protection plan is not written, site-specific, or otherwise fails to meet the requirements of 1926.502(k), the violation should be cited as a grouped citation of 1926.501(b)(13) and 1926.502(k). A written plan developed for repetitive use for a particular style/model home will be considered site-specific with respect to a particular site only if it fully addresses all issues related to fall protection at that site.
- C. See CPL 02-00-111, Citation Policy for Paperwork and Written Program Requirement Violations, November 27, 1995, for additional guidance when citing violations of the requirement for a written fall protection plan in 1926.501(b)(13) and 1926.502(k).

IV. Outreach.

HIOSH will begin enforcement activities on June 16, 2011. Prior to the effective date, HIOSH will undertake various outreach efforts, such as posting on the HIOSH website; notification to construction employer associations; notification through presentations.

V. Effective Date.

The effective date for enforcement activities is June 16, 2011